



Agenda Date: 8/18/03

Agenda Item: IV D

STATE OF NEW JERSEY

Board of Public Utilities

Two Gateway Center

Newark, NJ 07102

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TELECOMMUNICATIONS

IN THE MATTER OF THE PETITION OF)	ORDER OF APPROVAL
WARWICK VALLEY TELEPHONE COMPANY)	
FOR CERTIFICATION WITH REGARD TO)	
THE USE OF UNIVERSAL SERVICE SUPPORT)	DOCKET NO. TO01090575

(SERVICE LIST ATTACHED)

BY THE BOARD:

On June 25, 2003, pursuant to 47 C.F.R. §54.314, Warwick Valley Telephone Company (Warwick) filed a verified petition with the Board of Public Utilities (Board) requesting certification that Warwick's use of Universal Service Support funds (USS) is consistent with the purposes for which such funds may be used, according to federal law. On July 17, 2003, Warwick sent certification of publication regarding this matter and on July 25, 2003 provided the final figures for items (3)(a) Outside Plant Capital Expenditures Projected for 2004, and item (3)(b) Central Office Equipment Expenditures for 2004, which had not been available at the time of the June 25, 2003 petition. This certification must be filed with the Federal Communications Commission (FCC) by October 1, 2003 in order for Warwick to receive its full allocation of funds under requirements imposed by the FCC. Warwick has requested expedited treatment of this matter.

Warwick is an incumbent local exchange carrier (ILEC) providing telecommunications services to customers in the Township of Vernon, County of Sussex, and Township of West Milford, County of Passaic, New Jersey, and the towns of Warwick and Goshen, New York. Warwick provides service to approximately 28,200 access lines, of which approximately 10,300 are in New Jersey. Warwick is a rural telephone company as defined by the Telecommunications Act of 1996, P.L. 104-104, 110 Stat. 56 (codified in scattered sections of 47 U.S.C. §§151 *et seq.*) (hereinafter, the Act). See 47 U.S.C. § 153(37). The Board has previously certified Warwick as an eligible telecommunications carrier (ETC) pursuant to 47 U.S.C. §214(e). See Order of Approval, I/M/O a Petition by Warwick Valley Telephone Company for Designation as an Eligible Telecommunications Carrier Under the Telecommunications Act of 1996, Docket No. TO97080587 (November 25, 1997). Under the Act, certification as an Eligible Telecommunications Carrier is necessary in order to receive federal Universal Service Support. 47 U.S.C. § 254(e).

The FCC's rule at 47 C.F.R. §54.314(a) requires that, in order for Warwick to receive USS funds, the Board must file an annual certification with the USS fund administrator and state to the FCC that "all federal high-cost support provided to [Warwick] will be used only for provision, maintenance and upgrading of facilities and service for which the support is intended." Pursuant to 47 C.F.R. §54.314(d), the Board's annual certification must be filed with the

administrator and the FCC by October 1, 2003, in order for Warwick to receive USS fund support for 2004.

By previous Order, dated September 5, 2002 at Docket No. TO01090575, the Board certified Warwick's use of USS funds in order for Warwick to receive support in 2003. In that Order, the Board stated:

Because state certification is now required on an annual basis, and in order to ensure continued use of universal support funds in a manner consistent with federal law, the Board DIRECTS Warwick to submit to the Board, no later than July 1st and January 1st of each year, a report, in a manner and format to be determined by Staff, providing auditable information sufficient to determine Warwick's compliance with federal law, including, but not limited to, compliance with the FCC's required uses of universal support funds. The Board FURTHER DIRECTS Warwick to file its future requests for Board certification no later than July 1st of each year, absent extenuating circumstances, and to simultaneously publish notice of the filing in newspapers of general circulation in its service territory. Such notice shall be reviewed by Staff prior to its publication.

By letter, dated December 27, 2002, Warwick provided pro forma information as of December 31, 2002 on Warwick's use of USS funds, in the same format and using the same accounting method that Warwick used in filing its previous petition for certification, dated September 15, 2002, at Docket No. TO01090575. Warwick stated that, absent different format and accounting methods determined by Board Staff, it intended to file, on a semi-annual basis, the same form of schedules as its support for obtaining the Board's future certifications on use of USS funds.

Warwick has filed the following information with its petition and its July 17, 2003 and July 25, 2003 letters:

- A – Cost Support Response Form prepared as of June 20, 2003 (schedules for 2003 pro forma and 2004 projected) and updated July 25, 2003.
- B – Affidavit of Herbert Gareiss, Jr., Vice President of Warwick, certifying use of USS funds for 2004 will be for intended purposes under the Act.
- C – A copy of the proof of newspaper publication of this filing.

Warwick's petition includes an affidavit from Company Vice President Herbert Gareiss, Jr., in which Mr. Gareiss states the following:

Warwick Valley Telephone Company hereby certifies that it will only use the federal high-cost Universal Service Support it receives during 2003 for the provision, maintenance, and upgrading of facilities and service for which such support is intended, as required by 47 C.F.R. §54.101.

[Warwick petition, Exhibit B].

Having reviewed the petition and the information submitted in support thereof, the Board HEREBY CERTIFIES that Warwick shall use the federal USS it receives during 2004 for the provision, maintenance and upgrading of facilities and service for which such support is intended, as required by Section 254(e) of the Telecommunications Act of 1996 and 47 C.F.R. §54.101et seq.

Because state certification is now required on an annual basis, and in order to ensure continued use of Universal Service Support funds in a manner consistent with federal law, the Board DIRECTS Warwick to continue to submit to the Board, no later than July 1st and January 1st of each year, a report, in a manner and format to determined by Staff, providing auditable information sufficient to determine Warwick's compliance with federal law, including, but not limited to, compliance with the FCC's required uses of Universal Service Support funds.

The Board FURTHER DIRECTS Warwick to continue to file its future requests for Board certification no later than July 1st of each year, absent extenuating circumstances, and to simultaneously publish notice of the filing in newspapers of general circulation in its service territory. Such notice shall be reviewed by Staff prior to its publication.

In addition, the Board requests that the Attorney General's office provide, to the Secretary of the FCC, a letter transmitting this Order in compliance with certification requirements as set forth in 47 C.F.R. §54.315.

DATED: 8/19/03

BOARD OF PUBLIC UTILITIES
BY:

(signed)
JEANNE M. FOX
PRESIDENT

(signed)
FREDERICK F. BUTLER
COMMISSIONER

(signed)
CAROL J. MURPHY
COMMISSIONER

(signed)
CONNIE O. HUGHES
COMMISSIONER

(signed)
JACK ALTER
COMMISSIONER

ATTEST:

(signed)
KRISTI IZZO
SECRETARY